



27 MAR 2008

ELI LILLY & COMPANY  
Patent Division  
P.O. Box 6288  
Indianapolis IN 46206-6288

In re Application of :  
REMICK, David Michael :  
Application No.: 10/542,872 :  
PCT No.: PCT/US04/00020 :  
Int. Filing Date: 21 January 2004 :  
Priority Date: 25 February 2003 :  
Attorney Docket No.: X15930 :  
For: CRYSTALLINE NON-SOLVATED :  
1-(4-(2-PIPERIDINYLETHOXY)PHENOX :  
Y)-2-(4-METHANESULFONYLPHENYL) :  
-6-HYDROXYNAPHTHALENE :  
HYDROCHLORIDE :

DECISION

This decision is in response to applicant's "Request for Corrected Filing Receipt" filed 28 June 2006. Applicants are requesting that International Application no. PCT/IB03/03349 filed 16 July 2003 be added under 'Domestic Priority data as claimed by applicant' to the Official Filing Receipt of the above-identified application.

**BACKGROUND**

On 21 January 2004, applicant filed international application PCT/US04/00020 which claimed a priority date of 25 February 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 25 July 2005.

On 20 July 2005, applicant filed a Transmittal Letter for entry into the national stage accompanied, *inter alia*, by: the requisite basic national fee; a copy of the international application; and a preliminary amendment. The international application furnished by the International Bureau included an executed Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv).

On 18 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Acceptance of Application under 35 U.S.C. 371 (Form PCT/DO/EO/903) which indicated a date under 35 U.S.C. 371 of 20 July 2005.

On 28 June 2006, applicant filed "Request for Corrected Filing Receipt."

### DISCUSSION

Applicant requests that International Application no. PCT/IB03/03349 filed 16 July 2003 be added under 'Domestic Priority data as claimed by applicant' of the Official Filing Receipt for the above-identified application. 37 CFR 1.78(a) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications or international application designating the United States of America must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. The relationship between the application is whether the subject application is a continuation, divisional, or continuation-in-part of a prior filed nonprovisional application. In this case, the benefit claim to PCT/IB03/03349 does not comply with 37 CFR 1.78 since the proper relationship between the present application and PCT/IB03/03349 has not been stated. Therefore, applicant's request for corrected filing receipt cannot be granted at this time.

Applicant may wish to consider filing a petition under 37 CFR § 1.78(a)(3) in the present application indicating the relationship to application no. PCT/IB03/03349. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application.

### CONCLUSION

Applicant's request for corrected filing receipt is REFUSED.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Anthony Smith  
Attorney-Advisor  
Office of PCT Legal Administration  
Tel: (571) 272-3298  
Fax: (571) 273-0459